

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF NEW YORK

HOUSTON POLICE OFFICERS'
PENSION SYSTEM

V.

STATE STREET BANK & TRUST
COMPANY and STATE STREET
GLOBAL ADVISORS, INC.

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MDL No. 1945

Civil Action No. 08-05442-RJH

**PLAINTIFF HOUSTON POLICE OFFICERS' PENSION SYSTEM'S
MOTION FOR PARTIAL SUMMARY JUDGMENT**

Pursuant to Federal Rule of Civil Procedure 56, Plaintiff Houston Police Officers' Pension System (HPOPS) respectfully moves this Court to grant its Motion for Partial Summary Judgment, which seeks partial summary judgment on the following grounds:

First, HPOPS seeks a partial summary judgment that the unambiguous language of the Investment Management Agreement between HPOPS and Defendants State Street Global Advisors and State Street Bank & Trust Co. (together, "State Street") establishes as a matter of law that State Street (as HPOPS's Investment Manager), and not HPOPS, was contractually vested with the power to manage the entirety of HPOPS's separately managed commodities strategy investment, and thus undertook the sole responsibility, at all times relevant, to select the appropriate cash management fund for the cash collateral for the strategy, to monitor the cash collateral, and to move the cash collateral to a different fund if prudent.

Second, HPOPS seeks a partial summary judgment that the affirmative defenses State Street has asserted against HPOPS, including State Street's second defense ("plaintiff's own

conduct"); third defense (unclean hands and in pari delicto); fourth defense ("plaintiff's own negligence"); fifth defense (proportionate responsibility); eighth defense (assumption of the risk); ninth defense (ratification, waiver, laches, and estoppel); and eleventh defense (failure to mitigate damages), fail as a matter of law.

The grounds for this motion are set forth in HPOPS's Memorandum in Support of Its Motion for Partial Summary Judgment, served concurrently with this motion. HPOPS is also serving concurrently with this Motion its Local Rule 56.1 Statement of Material Facts in Support of Motion for Partial Summary Judgment.

Dated: June 2, 2010

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CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing has been served on all counsel of record via electronic mail on this 2nd day of June 2010, as set forth below.

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